

REMARKS

Claims 3 to 6 and 8 to 23 are all the claims pending in the application.

Claims 3 to 6 and 23 have been rejected under 35 U.S.C. § 103(a) as obvious over U.S. Patent Application Publication No. 2004/0079446 to Kogure et al.

In addition, claims 8 to 12 have been rejected under 35 U.S.C. § 103 (a) as obvious over Kogure et al in view of U.S. Patent Application Publication No. 2004/0194855 to Fukamichi et al.

As applicant stated in the Amendment Under 37 C.F.R. § 1.111 filed on May 26, 2009, Kogure et al is not a valid reference against each of the rejected claims which remain in the application because the present application claims the benefit of U.S. Provisional Application No. 60/424,015, filed on November 6, 2002, which date is before the August 18, 2003 filing date of Kogure et al. Thus, Kogure et al cannot be used against the present application for any claim of the present application that is supported by the Provisional Application. As stated in the Amendment, the Provisional Application No. 60/424,015 supports each of the rejected claims which remain in the application.

In the Office Action, the Examiner states that applicant is not entitled to the benefit of the provisional application because an English translation of the provisional application with a translator's statement had not been filed.

In response to this statement, undersigned counsel called the Examiner, Mr. Sheehan, on October 7, 2009 and pointed out that a translation and translator's statement had, in fact, been filed in the present application on April 15, 2005, and were present in the electronic file of the USPTO. Undersigned counsel reviewed with the Examiner where these documents could be

located. Undersigned counsel also explained that because the present non-provisional application was filed before November 25, 2005, it was not necessary to file the translation in the provisional application, and that filing the translation in the present non-provisional application satisfied the requirement for filing a translation. In addition, undersigned counsel explained that the Fukamichi et al '855 reference was not available as a reference against the present application because its filing date of April 1, 2003 is after the filing date of the provisional application.

During the telephone call, the Examiner located these documents and agreed to review them to determine whether they supported the present claims. The Examiner, after reviewing these documents, then called back undersigned counsel on the same day, and indicated that he agreed that the documents overcame both rejections.

In view of the above, applicant requests withdrawal of each of the two rejections.

The above discussion of the telephone calls of October 7, 2009 constitutes applicant's Statement of the Substance of the Interviews

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

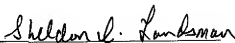
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